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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,566	02/21/2001	Tsuneyuki Kikuchi	Q63195	5930

7590 05/13/2005

SUGHRUE, MION, ZINN, MACPEAK & SEAS  
2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037

EXAMINER
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CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/788,566

Applicant(s)

KIKUCHI, TSUNEYUKI

Examiner

Dohm Chankong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1> This action is in response to Applicant's amendment and remarks. Claims 1-22 are presented for further examination.

#### *Response to Arguments*

2> Applicant's arguments, see pages 14-20, filed 3.1.2005, with respect to the rejection(s) of claim(s) 1-22 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of new prior art.

3> In regards to Applicant's arguments, with respect to the McCreery reference, Applicant argues that McCreery does not teach an annunciator that notifies a user when a certain rule is satisfied. Applicant further asserts that McCreery is only directed towards alerting internet managers of network problems.

Examiner respectfully submits that Applicant is narrowly interpreting the McCreery reference. McCreery gives no motivation to believe his invention would only be applicable to internet managers. McCreery mentions internet managers as possible individuals who would benefit from his invention; McCreery broadly asserts alerting "selected individuals" when rules (thresholds) are met concerning monitored traffic [column 5 «lines 44-57» | column 8 «lines 1-9»]. One of ordinary skill in the art would easily be able to infer the benefits of such an alarm functionality in regards to monitoring of traffic packets. As McCreery states, providing an alert message based on user rules or policy can increase network reliability.

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Applicant further argues that there is no teaching that McCreery is directed towards monitoring packets transmitted to individual users. Applicant is respectfully directed towards the tables of Figure 6 and [column 5 «lines 53-55»]; these tables clearly show monitoring of packets between individual nodes (users).

*Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4> Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 5 is rejected for having unclear language: "third device which said third and fourth memories when said second device transmits a request to said packet monitor device to start or finish...". It is unclear the relationship between the third device and the third and fourth memories.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by

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another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5> Claims 1 and 12 are rejected under 35 U.S.C § 102(e) as being anticipated by Ball et al, U.S Patent No. 6,446,200 ["Ball"].

6> As to claim 1, Ball discloses a system for monitoring packets transmitted on a channel connecting an application server and a user of said application server to each other, comprising:

a certification server which certifies a user [column 3 «lines 41-48» | column 4 «lines 3-8» | column 8 «lines 1-24» where : the radius server and Ball's "accounting process" work together to certify a user]; and

a packet monitor device which, on receipt of a request from said certification server, monitors packets transmitted on said channel [column 7 «lines 3-16» | column 8 «lines 1-24»].

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7> As to claim 12, as it is merely a medium that stores the system of claim 1, it does not teach or further modify over the claimed limitations. Therefore claim 12 is rejected for the same reasons set forth for claim 1, *supra*.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8> Claims 2, 5 and 13 are rejected under 35 U.S.C § 103(a) as being unpatentable over Ball, in view of Ikudome et al, U.S Patent No. 6,779,118 ["Ikudome"].

9> As to claim 2, Ball discloses the system of claim 1, wherein said certification server includes:

a first memory which stores a user management table including IP numbers of users, a monitoring parameter designating a packet to be monitored, and a threshold parameter designating a method of monitoring said packet [column 12 «line 66» to column 13 «line 3 » | column 14 «lines 3-17» | column 14 «line 49» to column 15 «line 49» | column 31 «line 64» to column 32 «line 4» | column 32 «lines 35-59»]; and

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a second device which transmits a request to said packet monitor device to start or finish monitoring said packet at a timing when said user logs-in or logs-out his/her terminal [column 8 «lines 1-24»].

Ball does not disclose storing a password related to the users.

10> However, Ball does disclose authenticating users [column 14 «lines 1-6»], where it is well known in the art that authentication includes verification of passwords. Furthermore, in the related field of invention, Ikudome discloses a management database that stores usernames with their respective passwords [column 2 «line 65» to column 3 «line 4»]. Therefore it would have been obvious to one of ordinary skill in the art to have implemented Ball's management table with passwords to make authentication of the user more efficient.

11> As to claim 13, as it is merely a medium that stores the system of claim 2, it does not teach or further modify over the claimed limitations. Therefore claim 13 is rejected for the same reasons set forth for claim 2, supra.

12> Claims 3, 4, 6, and 7 are rejected under 35 U.S.C § 103(a) as being unpatentable over Ball and Ikudome, in further view of McCreery et al, U.S Patent No. 5,787,253 [“McCreery”].

13> As to claim 3, Ball discloses the system of claim 2, wherein said packet monitor device includes:

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a fourth memory which stores a first time at which a packet transmitted from one of said application server and said user arrives, when said packet monitor device receives a request from said second device to monitor said packet [column 8 «lines 1-24»];

an analyzer which monitors a second time at which packets meeting said monitoring parameter arrive, and determines whether any rule has been satisfied in an interval in said second time [column 31 «line 64» to column 32 «line 4» | column 33 «lines 14-36»].

Ball does not disclose an annunciator that notifies the user when a certain rule is satisfied.

14> McCreery discloses an annunciator which makes annunciation to said user when there is a certain rule in said interval [column 5 «lines 37-57» | column 8 «lines 1-9» where: McCreery's alarm generation section is comparable in functionality to the claimed annunciator as they both alert the user when there a certain rule is satisfied]. It would have been obvious to one of ordinary skill in the art to implement McCreery's rule-based annunciator functionality into Ball's packet monitoring system to alert users immediately when certain predetermined rules have been satisfied by the monitored packets.

15> As to claim 4, Ball discloses the system of claim 2, wherein said certification server includes a first device which updates said monitoring parameter and said threshold parameter, when instructed by said user [column 4 «lines 3-5» | column 5 «line 63» to column 6 «line 5» | column 14 «line 49» to column 15 «line 49»].



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16> As to claims 5 and 6, Ball discloses the system of claim 2,, wherein said packet monitor device include:

a second memory which stores said monitoring parameter transmitted from said second device [column 16 «lines 5-18» | column 32 «lines 36-49» | column 33 «lines 14-44»];

a third memory which stores said threshold parameter transmitted from said second device [column 16 «lines 5-18» | column 32 «lines 36-49» | column 33 «lines 14-44»]; and

a third device which said third and fourth memories when said second device transmits a request to said packet monitor device to start or finish monitoring said packet [column 8 «lines 1-24»].

17> As to claim 7, Ball discloses the system of claim 6, wherein said analyzer analyzes whether there is any rule in said interval and whether said interval exceeds said threshold parameter [column 33 «lines 2-5 and 57-63»], but does not specifically disclose said annunciator makes annunciation to said user when said analyzer judges that there is a certain rule in said interval and that said interval exceeds said threshold parameter.

Ball does not disclose an annunciator that notifies the user when a certain rule is satisfied.

18> McCreery discloses a system wherein said annunciator makes annunciation to said user when said analyzer judges that there is a certain rule in said interval and that said interval exceeds said threshold parameter [Figure 2 «items 220 and 270» | column 5 «lines 44-57» | column 6 «line 65» to column 7 «line 2»]. It would have been obvious to one of ordinary

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skill in the art to include McCreery's annunciator functionality into Ball's packet monitoring system to provide alert functionality to the user when the packet analyzer detects a threshold condition, such alert functionality being well known and expected in the art.

19> As to claims 14-18, as they are merely mediums that store the system of claims 3-7, respectively, they do not teach over the claimed limitations. Therefore claims 14-18 are rejected for the same reasons set forth for claims 3-7, *supra*.

20> Claims 8 and 9 are rejected under 35 U.S.C § 103(a) as being unpatentable over Ball, in view of McCreery.

21> As to claim 8, Ball discloses a method of monitoring packets transmitted on a channel connecting an application server and a user of said application server to each other, comprising the steps of:

acquiring a monitoring parameter indicative of a packet to be monitored, when said user logs-in his/her terminal [column 8 «lines 1-24» | column 32 «line 36» to column 33 «line 5»]; and

monitoring a time at which packets coincident with said monitoring parameter arrive, and determining whether there is any rule in an interval in said arrival time [column 8 «lines 1-24» | column 33 «lines 14-36»].

Ball does not disclose an annunciator that notifies the user when a certain rule is satisfied.

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22> McCreery discloses an annunciator which makes annunciation to said user when there is a certain rule in said interval [column 5 «lines 37-57» | column 8 «lines 1-9» where: McCreery's alarm generation section is comparable in functionality to the claimed annunciator as they both alert the user when there a certain rule is satisfied]. It would have been obvious to one of ordinary skill in the art to implement McCreery's rule-based annunciator functionality into Ball's packet monitoring system to alert users immediately when certain predetermined rules have been satisfied by the monitored packets.

23> As to claim 9, Ball discloses the method of claim 8, further comprising the step of ceasing said step when said user logs-out his/her terminal [column 8 «lines 16-24»].

24> As to claims 19 and 20, as they are merely mediums that store the system of claims 8 and 9, respectively, they do not teach over the claimed limitations. Therefore claims 19 and 20 are rejected for the same reasons set forth for claims 8 and 9, supra.

25> Claims 10 are rejected under 35 U.S.C § 103(a) as being unpatentable Ball and McCreery, in view of Ikudome.

26> As to claim 10, Ball discloses the method of claim 8, wherein said monitoring parameter is included in a user management table which further includes an ID number of said user and a threshold parameter designating a method of monitoring said packet [column

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12 «line 66» to column 13 «line 3 » | column 14 «lines 3-17» | column 14 «line 49» to column 15 «line 49» | column 31 «line 64» to column 32 «line 4» | column 32 «lines 35-59»], and said step includes the steps of:

retrieving said user management table, based on said ID number input by said user [column 14 «lines 59-66» | column 20 «lines 4-10»];

acquiring said monitoring parameter, if said monitoring parameter is stored in said user management table [column 14 «line 59» to column 15 «line 32» | column 16 «lines 5-18» | column 32 «lines 41-49»]; and

acquiring said threshold parameter, if said threshold parameter is stored in said user management table [column 14 «line 59» to column 15 «line 32» | column 16 «lines 5-18» | column 32 «lines 41-49»].

Ball does not disclose storing a password related to the users.

27> However, Ball does disclose authenticating users [column 14 «lines 1-6»], where it is well known in the art that authentication includes verification of passwords. Furthermore, in the related field of invention, Ikudome discloses a management database that stores usernames with their respective passwords [column 2 «line 65» to column 3 «line 4»].

Therefore it would have been obvious to one of ordinary skill in the art to have implemented Ball's management table with passwords to make authentication of the user more efficient.

28> As to claim 11, Ball discloses the method of claim 10, wherein said step includes the step of analyzing whether there is any rule in said interval and whether said interval exceeds

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said threshold parameter, after acquiring said threshold parameter [column 33 «lines 2-5 and 57-63»], but does not specifically disclose said annunciator makes annunciation to said user when said analyzer judges that there is a certain rule in said interval and that said interval exceeds said threshold parameter.

Ball does not disclose an annunciator that notifies the user when a certain rule is satisfied.

29> McCreery discloses a system wherein said annunciator makes annunciation to said user when said analyzer judges that there is a certain rule in said interval and that said interval exceeds said threshold parameter [Figure 2 «items 220 and 270» | column 5 «lines 44-57» | column 6 «line 65» to column 7 «line 2»]. It would have been obvious to one of ordinary skill in the art to include McCreery's annunciator functionality into Ball's packet monitoring system to provide alert functionality to the user when the packet analyzer detects a threshold condition, such alert functionality being well known and expected in the art.

30> As to claims 20 and 21, as they are merely mediums that store the system of claims 10 and 11, respectively, they do not teach over the claimed limitations. Therefore claims 20 and 21 are rejected for the same reasons set forth for claims 10 and 11, supra.

### *Conclusion*

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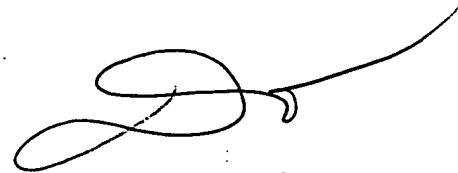
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is (571)272-3942.

The examiner can normally be reached on 8:30AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571)272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DC

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line that curves upwards at the end.

**Dung C. Dinh**  
**Primary Examiner**